

(ii) *Exclusion; minor blending.* A mixture described in paragraph (c)(1)(i) of this section is not blended taxable fuel if, during the calendar quarter in which the blender removes or sells the mixture, all such mixtures removed or sold by the blender contain, in the aggregate, less than 400 gallons of liquid described in paragraph (c)(1)(i)(B) of this section.

(iii) *Exclusion; gasohol.* Blended taxable fuel does not include any gasohol (as defined in § 48.4081-6(b)(2)) if, disregarding the alcohol, the gasohol is not blended taxable fuel and contains, in addition to permitted amounts of liquids described in paragraph (c)(1)(i)(B) of this section, only gasoline with respect to which—

(A) Tax was imposed under section 4081(a) at a rate described in § 48.4081-6(e) (relating to the gasohol production tax rate and the gasohol tax rate); or

(B) A valid claim is made under section 6427(f).

(2) *Diesel fuel*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, *diesel fuel* means any liquid that, without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train.

(ii) *Exclusion.* *Diesel fuel* does not include gasoline, kerosene, excluded liquid, No. 5 and No. 6 fuel oils covered by ASTM specification D 396, or F-76 (Fuel Naval Distillate) covered by military specification MIL-F-16884. For availability of ASTM and military specifications, see paragraph (d) of this section.

(3) *Gasoline blendstocks*—(i) *In general.* Except as provided in paragraph (c)(3)(ii) of this section, *gasoline blendstocks* means—

- (A) Alkylate;
- (B) Butane;
- (C) Butene;
- (D) Catalytically cracked gasoline;
- (E) Coker gasoline;
- (F) Ethyl tertiary butyl ether (ETBE);
- (G) Hexane;
- (H) Hydrocrackate;
- (I) Isomerate;
- (J) Methyl tertiary butyl ether (MTBE);
- (K) Mixed xylene (not including any separated isomer of xylene);
- (L) Natural gasoline;

- (M) Pentane;
- (N) Pentane mixture;
- (O) Polymer gasoline;
- (P) Raffinate;
- (Q) Reformate;
- (R) Straight-run gasoline;
- (S) Straight-run naphtha;
- (T) Tertiary amyl methyl ether (TAME);
- (U) Tertiary butyl alcohol (gasoline grade) (TBA);
- (V) Thermally cracked gasoline;
- (W) Toluene; and
- (X) Transmix containing gasoline.

(ii) *Exclusion. Gasoline blendstocks* does not include any product that cannot, without further processing, be used in the production of finished gasoline. For example, a mixed hydrocarbon stream that is produced in a natural gas processing plant is not a gasoline blendstock if the stream cannot be used to produce finished gasoline without further processing.

(d) *ASTM and military specifications.* ASTM specifications may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Military specifications may be obtained from the Standardization Document Order Desk, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111.

(e) *Other definitions.* For other definitions relating to taxable fuel, see §§ 48.4081-6(b), 48.4082-5(b), 48.4082-6(b), 48.4082-7(b), 48.4101-1(b), 48.6427-9(b), 48.6427-10(b), and 48.6427-11(b).

(f) *Effective date.* (1) Except as provided in paragraph (f)(2) of this section, this section is applicable after December 31, 1993.

(2) In paragraph (b) of this section, the definition of aviation gasoline and the third sentence in the definition of terminal are applicable after January 1, 1998, and the definitions of kerosene, excluded liquid, and taxable fuel are applicable after June 30, 1998. Paragraph (c)(2) of this section is applicable after December 31, 1997.

[T.D. 8659, 61 FR 10453, Mar. 14, 1996, as amended by T.D. 8748, 63 FR 25, Jan. 2, 1998; T.D. 8879, 65 FR 17155, Mar. 31, 2000]

§ 48.4081-2 Taxable fuel; tax on removal at a terminal rack.

(a) *Overview.* This section provides the general rule that all removals of

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taxable fuel at a terminal rack are subject to tax and the position holder with respect to the fuel is liable for the tax.

(b) *Imposition of tax.* Tax is imposed on the removal of taxable fuel from a terminal if the taxable fuel is removed at the rack.

(c) *Liability for tax—(1) In general.* The position holder with respect to the taxable fuel is liable for the tax imposed under paragraph (b) of this section.

(2) *Joint and several liability of terminal operator; unregistered position holder—(i) In general.* The terminal operator is jointly and severally liable for the tax imposed under paragraph (b) of this section if—

(A) The position holder with respect to the taxable fuel is a person other than the terminal operator and is not a taxable fuel registrant; and

(B) The terminal operator has not met the conditions of paragraph (c)(2)(ii) of this section.

(ii) *Conditions for avoidance of liability.* A terminal operator is not liable for tax under this paragraph (c)(2) if, at the time of the removal, the terminal operator—

(A) Is a taxable fuel registrant;

(B) Has an unexpired notification certificate (as described in § 48.4081-5) from the position holder; and

(C) Has no reason to believe that any information in the notification certificate is false.

(3) *Joint and several liability of terminal operator; incorrect information provided.* The terminal operator is jointly and severally liable for the tax imposed under paragraph (b) of this section if, in connection with the removal of diesel fuel or kerosene that is not dyed and marked in accordance with § 48.4082-1, the terminal operator provides any person (including the position holder with respect to the fuel) with any bill of lading, shipping paper, record, or similar document indicating that the diesel fuel or kerosene is dyed and marked in accordance with § 48.4082-1.

(4) *Example.* The following example illustrates this paragraph (c) and § 48.4082-1:

Example. (i) TO is a terminal operator and PH is the position holder with respect to, and owner of, 8,000 gallons of diesel fuel stored in TO's terminal. TO and PH are tax-

able fuel registrants. When the fuel is removed from the terminal at the rack, the fuel is not dyed and marked in accordance with § 48.4082-1, and TO does not provide any person with any paperwork indicating that the fuel is dyed and marked. After the removal from the terminal, PH sells the fuel to individuals for use as heating oil, a nontaxable use.

(ii) Because PH is the position holder of the fuel at the time of the removal from the terminal, PH is liable for the tax imposed by section 4081. The removal is subject to tax because the fuel is not dyed and marked in accordance with § 48.4082-1, and later use of the fuel in a nontaxable use does not make the removal from the terminal exempt from tax.

(iii) Because PH is a taxable fuel registrant and TO did not provide any person with any paperwork indicating that the fuel is dyed and marked, TO is not jointly and severally liable for tax under paragraph (c) (2) or (3) of this section.

(d) *Rate of tax.* For the rate of tax generally, see section 4081(a). For the rate of tax on gasohol and on gasoline removed for gasohol production, see § 48.4081-6.

(e) *Exemptions.* For exemptions from the tax imposed under this section, see §§ 48.4081-4 (relating to gasoline blendstocks), 48.4082-1 (relating to dyed diesel fuel and dyed kerosene), 48.4082-5 (relating to diesel fuel and kerosene used in Alaska), 48.4082-6 (relating to aviation-grade kerosene), and 48.4082-7 (relating to kerosene used for a feedstock purpose).

(f) *Effective date.* This section is applicable after December 31, 1993.

[T.D. 8659, 61 FR 10455, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17156, Mar. 31, 2000]

§ 48.4081-3 Taxable fuel; taxable events other than removal at the terminal rack.

(a) *Overview.* Although tax is imposed when taxable fuel is removed from the terminal at the rack, tax also is imposed in certain other situations described in this section.

(b) *Tax on removal from a refinery—(1) Imposition of tax.* Tax is imposed on the following removals from a refinery:

(i) A removal of taxable fuel by bulk transfer if the refiner or the owner of the taxable fuel immediately before the removal is not a taxable fuel registrant.